

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-419 of 2015 (O&M)
Date of Order: 18.07.2023

Naresh Kumar

.Appellant

Versus

Hem Raj and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajit Sihag, Advocate,
for the appellant.

Mr. O.P.Goyal, Sr. Advocate, with
Mr. Yugank Goyal, Advocate
for respondent no.1

ANIL KSHETARPAL, J

1. The appellant before this Court was a tenant in the premises owned by Sh. Hem Raj, contesting respondent. no.1. In an eviction petition filed by Sh. Hem Raj, the appellant was ordered to be evicted by the Court of Rent Controller. In an appeal filed by the appellant, the Appellate Authority assessed the amount of mesne profit @ Rs.3000/- per month. The appellant filed the revision petition to challenge the correctness of the amount of mesne profit. An interim order was passed in the favour of the appellant to continue paying the agreed rent @ Rs.365/- per month.

2. During the pendency of the revision petition against an interlocutory order, the Appellate Authority dismissed the appeal filed by the tenant. Pursuant thereto, the possession of the rent building has been handed over to the landlord. The landlord (Sh. Hem Raj) filed a suit for recovery of Rs.62,751/- including the principle amount of Rs.58,646/- representing the amount of mesne profit @ Rs.3000/- per month from 12.03.2008 till

28.10.2009.

3. The trial Court dismissed the suit, whereas the First Appellate Court has decreed the suit while reversing the judgment of the trial Court. It has been found that after the order of eviction by the Rent Controller, the tenant (the appellant) was held liable to pay the amount of mesne profit and therefore, the trial court has erred in dismissing the suit. Reliance in this regard can be placed on the judgment passed by the Hon'ble Supreme Court in *M/s Atma Ram Properties (Private) Limited vs. M/s Federal Motors Private Limited, 2005 (1) HRR 225 (SC)*.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

5. The learned senior counsel representing respondent no.1 has submitted that not only the possession of the tenanted premises has been handed over to the landlord but even the decreed amount has been paid. He has further informed the Court that the tenant filed a revision petition in the High Court in which the amount of mesne profit was assessed @ Rs.10,000/- per month and the tenant has been paying the amount Rs.10,000/- per month.

6. However, the learned counsel representing the appellant insists on making his submissions. He submits that the interlocutory order passed by the Appellate Authority was stayed by the High Court and therefore, the appellant continued to pay the rent at the agreed rate. He submits that on account of decision made by the Appellate Authority the revision petition was rendered infructuous.

7. This court has considered the submissions of the learned

counsels representing the parties.

8. In a case where the relationship of the landlord and tenant comes to an end due to passing of an order of eviction, thereafter, the tenant is liable to pay the market rent for use and occupation of the premises.. The Appellate Authority assessed the amount @ Rs.3000/- per month. This order was never set aside by any competent Court. The defendant-appellant has not led any evidence to prove that the aforesaid assessment was wrong or the market rent was less than the amount assessed by the Appellate Authority.

9. In such circumstances, the mere interim order passed by the High Court while issuing notice of motion in a revision petition would not result in setting aside a detailed order passed by the Appellate Authority while assessing the amount of mesne profit.

10. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

11. The Regular Second Appeal is dismissed.

12. All the pending miscellaneous applications, if any, are also disposed of.

July 18, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO